

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	ELECTRONICALLY FILED
	:	DOC #: <u>6/24/11</u>
MOIRA BRENNAN,	:	DATE FILED: <u>6/24/11</u>
	:	10 Civ. 0338(DLC)
	:	<u>ORDER</u>
-v-	:	
NEW YORK LAW SCHOOL,	:	
	:	
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DENISE COTE, District Judge:

On June 24, 2011, Joshua Bernstein ("Bernstein") submitted a letter seeking to withdraw as counsel for plaintiff and requesting a charging lien upon any recovery due plaintiff by virtue of a settlement or judgment in this action. In a declaration dated June 23, plaintiff consented to the withdrawal of Bernstein as counsel and to his charging lien. "[W]hen there ha[s] been a termination of the attorney and client relationship before trial by mutual consent," "there is no requirement of law or common sense that a court compel counsel to continue to represent a former client." McDonnell v. Tabah, 297 F.2d 731, 733 (2d Cir. 1961). Accordingly, it is hereby ORDERED that Bernstein's request to withdraw as plaintiff's counsel is granted. The Clerk of Court shall terminate his appearance in this action.

IT IS FURTHER ORDERED that Bernstein is entitled to a charging lien by operation of N.Y. Judiciary Law § 475 as the

attorney of record for plaintiff who is terminating his representation for just cause. See Itar-Tass Russian News Agency v. Russian Kurier, Inc., 140 F.3d 442, 450-51 (2d Cir. 1998) (attorney terminates for "just cause" "when he was not paid as agreed"). The application to set the amount of the charging lien is denied without prejudice for renewal as Piotrowski has not provided the Court with the information necessary to set the amount.

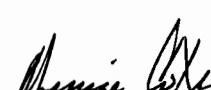
IT IS FURTHER ORDERED that new counsel for plaintiff must file a notice of appearance by July 8, 2011. If no attorney files a notice of appearance on behalf of plaintiff by that date, the Court will consider the plaintiff as proceeding in this litigation pro se.

IT IS FURTHER ORDERED that Bernstein must serve a copy of this Order on plaintiff forthwith.

IT IS FURTHER ORDERED that the March 22, 2011 Scheduling Order remains in effect.

SO ORDERED:

Dated: New York, New York
June 24, 2011


DENISE COTE
United States District Judge